

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

EDDIE VELA,

v.

**HOME DEPOT U.S.A. INC.,
D/B/A THE HOME DEPOT**

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CIVIL ACTION NO.

DEFENDANT’S NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Defendant HOME DEPOT U.S.A., INC. (“Home Depot”), Defendant in the above-entitled and –numbered cause, and files this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441 and 1446.

I. BACKGROUND

1. Home Depot is the defendant in a civil action pending in the 457th Judicial District Court of Cameron County, Texas, entitled CAUSE NO. 2021-DCL-03385-I; *Eddie Vela v. Home Depot U.S.A., Inc.* (hereinafter referred to as the “State Court Action”). An Index of State Documents Filed with the Notice of Removal is attached hereto as Exhibit “A” and true and correct copies of all process, pleadings, and orders served upon Home Depot in the State Court Action are attached hereto as Exhibit “B,” as required by 28 U.S.C. § 1446(a). A List of All Parties and Counsel is attached hereto as Exhibit “C”.
2. The State Court Action was filed on June 07, 2021. Home Depot was served with Plaintiff’s Original Petition (hereinafter referred to as the “Petition”) on June 08, 2021. The Petition asserts negligence, premises liability, and gross negligence claims against Home Depot, based on a personal injury accident that allegedly occurred in a Home Depot Store in Brownsville, Texas on July 17, 2020, when allegedly Plaintiff Eddie Vela (“Plaintiff”) was shopping at the store and a 2x4 fell off the second level of the lumber rack and struck plaintiff in the head, neck, back and shoulder. In the Petition, Plaintiff

specifically states that he is seeking monetary relief over \$1,000,000.00. Thus, it is facially apparent from the Petition that Plaintiff seeks damages in excess of \$75,000.00, such that the amount in controversy requirement for diversity jurisdiction is satisfied. Therefore, this Notice of Removal is timely filed within thirty (30) days of service of process of the first pleading or other paper from which it could be determined that the amount in controversy is in excess of \$75,000.00, exclusive of costs. *See* 28 U.S.C. § 1446(b).

II. DIVERSITY OF CITIZENSHIP

3. Plaintiff is, and was at the time of filing of this action, a citizen of the State of Texas.
4. Home Depot is, and was at the time of the filing of this action, a corporation incorporated under the laws of the State of Delaware with its principal place of business in Atlanta, Georgia. Consequently, Home Depot is a citizen of the States of Delaware and Georgia.
5. Consequently, the district courts of the United States have original jurisdiction over this action based on complete diversity of citizenship amongst and between the parties, in that Plaintiff and Home Depot are now, and were at the time this action commenced, diverse in citizenship from each other.
6. Under 28 U.S.C. § 1446(a), venue of the removed action is proper in this Court as it is the district and division embracing the place where the State Court Action is pending.
7. Pursuant to 28 U.S.C. § 1446(d), Home Depot will promptly give written notice of the filing of this notice of removal to Plaintiff and will further file a copy of this Notice of Removal with the District Clerk of Cameron County, Texas, where the State Court Action was previously pending.
8. **Jury Demand** – Home Depot hereby requests a trial by jury on all issues and claims in this cause.

WHEREFORE, Defendant Home Depot U.S.A., Inc. hereby removes the case styled Cause No. 2021-DCL-03385; Vela, Eddie v. Home Depot USA, Inc.; In the 445th Judicial District Court of Cameron County, Texas, and respectfully requests that this Court assume full

jurisdiction of this proceeding for all purposes as if originally filed in this Court, including but not limited to issuing any orders necessary to stay proceedings in the State Court Action.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served on all counsel of record pursuant to the Federal Rules of Civil Procedure on this the 6th day of July 2021:

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/ s / Joelle G. Nelson